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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 GAIL P. ARCINIEGA, an) Civil No. 13cv2066 JAH(RBB)
12 individual,)
13 Plaintiff,) NOTICE AND ORDER FOR EARLY
14 v.) NEUTRAL EVALUATION CONFERENCE
15 THE BEST SERVICE COMPANY; DOES)
16 1-10, INCLUSIVE,)
17 Defendants.)
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19 Due to the Court's calendar and in order to encourage maximum
20 participation of all litigants and the Court, good cause appears to
21 continue the early neutral evaluation conference beyond forty-five
22 days of the filing of the first answer.

23 IT IS HEREBY ORDERED that an early neutral evaluation of your
24 case will be held before United States Magistrate Judge Ruben B.
25 Brooks, United States Courthouse, 221 West Broadway, Courtroom 2C,
26 San Diego, California, on November 26, 2013, at 2:00 p.m.

27 Pursuant to Rule 16.1(c) of the Local Rules of the United
28 States District Court for the Southern District of California, all
parties (including those who are indemnified by others), claims

1 adjusters for insured Defendants and non-lawyer representatives
 2 with full and unlimited authority¹ to enter into a binding
 3 settlement, as well as the principal attorneys responsible for the
 4 litigation, must be present and legally and factually prepared to
 5 discuss and resolve the case. Corporate counsel shall not appear
 6 on behalf of a corporation as the party representative who has the
 7 authority to negotiate and enter into a settlement. Failure to
 8 attend or obtain a proper excusal will be considered grounds for
 9 sanctions. (Where the suit involves the United States or one of
 10 its agencies, only counsel for the United States with full
 11 settlement authority need appear.) (If Plaintiff is incarcerated
 12 in a penal institution or other facility, the Plaintiff's presence
 13 is not required and Plaintiff may participate by telephone. In
 14 that case, defense counsel is to coordinate the Plaintiff's
 15 appearance by telephone.)

16 Plaintiff's(s') counsel shall give notice of the early neutral
 17 evaluation conference to all defendants filing an answer after the
 18 date of this notice.

19 All conference discussions will be informal, off the record,
 20 privileged and confidential. Absent good cause shown, if any
 21 party, counsel or representative fails to promptly appear at the

22
 23 ¹ "Full authority to settle" means that the individuals at
 24 the settlement conference be authorized to fully explore settlement
 25 options and to agree at that time to any settlement terms
 26 acceptable to the parties. Heileman Brewing Co., Inc. v. Joseph
 27 Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have
 28 "unfettered discretion and authority" to change the settlement
 position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D.
 481, 485-86 (D. Ariz. 2003). The purpose of requiring a person
 with unlimited settlement authority to attend the conference
 includes that the person's view of the case may be altered during
 the face-to-face conference. Pitman at 486. A limited or a sum
 certain of authority is not adequate. Nick v. Morgan's Foods,
Inc., 270 F.3d 590 (8th Cir. 2001).

1 settlement conference, fails to comply with the terms of this
2 Order, including the failure to timely provide the settlement
3 conference memoranda WHEN REQUESTED, is substantially unprepared to
4 meaningfully participate in the settlement conference, or fails to
5 participate in good faith in the settlement conference, the
6 settlement conference may be vacated and sanctions may be imposed
7 pursuant to Rules 16(f) and 37(b)(2)(B), (C), and (D), Federal
8 Rules of Civil Procedure.

9 In the event the case does not settle at the early neutral
10 evaluation conference, the parties shall also be prepared to
11 discuss the following matters at the conclusion of the conference:

12 1. Any anticipated objections under Federal Rules of Civil
13 Procedure 26(a)(1)(E) to the initial disclosure provisions of
14 Federal Rule of Civil Procedure 26(a)(1)(A-D);

15 2. The scheduling of the Federal Rule of Civil Procedure 26
16 (f) conference (except in patent cases where no later than twenty-
17 one days before the early neutral evaluation conference, the
18 parties are to meet and confer pursuant to Rule 26(f));

19 3. The date of initial disclosure and the date for lodging
20 the discovery plan following the Rule 26(f) conference; and

21 4. The scheduling of a case management conference pursuant to
22 Federal Rule of Civil Procedure 16(b).

23 The Court will issue an order following the early neutral
24 evaluation conference addressing these issues and setting dates as
25 appropriate.

1 Questions regarding this case may be directed to the
2 magistrate judge's research attorney at (619) 557-3404.

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4 Dated: October 24, 2013


RUBEN B. BROOKS
United States Magistrate Judge

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6 cc: All Parties of Record
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27 A Notice of Right to Consent to Trial Before a United States
28 Magistrate Judge is attached for your information.

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**NOTICE OF RIGHT TO CONSENT TO TRIAL BY UNITED STATES
MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. § 636(c), you are hereby notified that a United States Magistrate Judge of this district may, upon the consent of all parties, conduct any or all proceedings, including a jury or non-jury trial, and order the entry of a final judgment. Consent forms are available in the Clerk's office. Counsel for the Plaintiff shall be responsible for obtaining the consent of all parties, should they desire to consent.

You should be aware that your decision to consent or not to consent is entirely voluntary and should be communicated solely to the Clerk of the Court. Only if all parties consent will the district judge or magistrate judge to whom the case has been assigned be informed of your decision.

Judgments of the United States Magistrate Judges are appealable to the United States Court of Appeals in accordance with this statute and the Federal Rules of Appellate Procedure unless the parties at the time of their consent to trial before a magistrate judge agree upon review by the United States District Court.